

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)
)
)
vs.) Cr. No. 02-000153-CG
)
LORENDO MOBLEY,)
)
Defendant.)

ORDER

This matter is before the court on defendant's notice of appeal and request for issuance of a certificate of appealability (Doc. 113).

To appeal a district court's final order in a proceeding brought under 28 U.S.C. § 2255, a petitioner must first obtain a certificate of appealability. See 28 U.S.C. § 2253(c)(1)(B); Fed. R. App. P. 22(b). Therefore, petitioner's notice of appeal is construed as the requisite motion for certificate of appealability. Section 2253(c)(2) provides that a certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." To make a "substantial showing of the denial of a constitutional right," a petitioner must "sho[w] that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" Anderson v. Sec'y for the Dep't of Corr., 462 F.3d 1319, 1323 (11th Cir. 2006) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000), in turn quoting Barefoot v. Estelle, 463 U.S. 880, 893 n.4(1983)) (alteration in original).

The only issue in this case is whether the petitioner timely filed his 2255 petition. This court has ruled that he did not and has denied petitioner's repeated attempts to revisit that ruling. Based on careful consideration of the record, the court finds that the petitioner has not demonstrated that the issues in this action are debatable among jurists of reason, that a court could resolve these issues in a different manner, or that they deserve encouragement to proceed

further. The court concludes that petitioner has not made a substantial showing of the denial of a constitutional right. Petitioner's motion for issuance of a certificate of appealability is therefore **DENIED.**

DONE and ORDERED this 11th day of March, 2008.

/s/ Callie V. S. Granade
CHIEF UNITED STATES DISTRICT JUDGE